IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8268 of 1992
with
SPECIAL CIVIL APPLICATION No 8269 of 1992
with
SPECIAL CIVIL APPLICATION No.3664 of 1996
with
SPECIAL CIVIL APPLICATION No.3665 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R. TRIPATHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DEPUTY ENGINEER
Versus
K J LANGALIA

Appearance:
Special Civil Application No. 8268/92 & 8269/92
Mr. Shailesh Parikh for Petitioner
NOTICE SERVED for Respondent No. 1

Special Civil Applications Nos.3664/96 & 3665/96
Mr.T.R. Mishra for the petitioner

CORAM : MR.JUSTICE RAVI R. TRIPATHI
Date of decision: 20/01/2001

COMMON ORAL JUDGEMENT

All these four petitions have a common question. First two petitions were filed by Gujarat Electricity Board (GEB) being aggrieved of the award passed by the Labour Court, Bhavnagar in Reference (LCB) Nos.307 of 1987 and 330 of 1987, and the latter two petitions were filed by the respective workmen. Copies of the award are placed on record.

2. By the awards in question, the Labour Court ordered reinstatement of the workmen concerned, but did not grant back wages for the period in between. It was contended by the petitioner, GEB that the Labour Court has erred in awarding reinstatement by holding that there is a breach of section 25H of the Industrial Disputes Act, 1947 ("the Act" for brevity). On the other hand it was the contention of the workmen that the Labour Court has erred in not awarding them back wages after having come to the conclusion that there is a breach of section 25H of the Act.

3. Mr.Mishra, learned advocate for the petitioner workmen submitted that the awards under challenge are duly complied with by Gujarat Electricity Board and the petitioner workmen were given employment. Thereafter, they had filed another reference for getting benefits of regularisation. In subsequent references made by the workmen, the Labour Court has awarded regularisation of the workmen with effect from 1.9.1995. Mr. Mishra submitted that in view of the decisions of this Court as well as the Honourable Supreme Court of India, the Labour Court had no choice not to award back wages once the Labour Court comes to the conclusion that there is breach of section 25H of the Act. On the other hand, it was the argument of Mr.Parikh and Mr. Jani, learned advocates appearing for the GEB that once the Labour Court had come to the conclusion that the workmen had not completed 240 days, therefore there is a breach of provisions of section 25F of the Act and there was no question of holding that there was a breach of provisions of section 25H of the Act.

4. After the matters were argued for some time, Mr.Mishra fairly submitted that since GEB has already complied with reinstatement part of the award and thereafter in subsequent references benefit of regularisation is also ordered and the same is complied with by GEB, he may not press the prayer for back wages, but he may be permitted to press for grant of continuity of service in respect of these workmen from the date of their initial appointment. This Court is of the opinion that the request of Mr.Mishra is reasonable. He is,

therefore, permitted to press for continuity of service though in so many terms Mr.Mishra has not prayed for the said relief in his petitions.

5. In the result all these petitions stand disposed of with the direction to Gujarat Electricity Board that both these workmen shall be granted continuity of service from the date of their initial appointment for all purposes. All these four petitions are disposed of accordingly. Rule is made absolute to the aforesaid extent only with no order as to cost.

(Ravi R. Tripathi, J.)
karim